

STATUS OF CLAIMS

Claims 1 – 10 are pending.

Claims 8 and 9 stand allowed.

Claims 1 – 3, 6, 7 and 10 stand rejected.

Claims 4 and 5 stand objected to.

REMARKS

Allowance of Claims 8 and 9 and indication of allowable subject matter in Claims 4 and 5 are gratefully acknowledged.

Reconsideration of the present application in light of the following remarks is respectfully requested.

Election/Restrictions

The withdrawal of the restriction requirement and the rejoinder of Claim 10 is gratefully acknowledged.

Claim Rejections – 35 U.S.C. § 102

Claims 1 and 3 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Hariharan et al. (US Patent Application Publication 2007/0014682). Claims 1 – 3, 6, 7 and 10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Chen et al. (US Patent Application Publication 2009/0068465). Applicant traverses these rejections for at least the following reasons.

35 U.S.C. § 102(e) states:

A person shall be entitled to a patent unless –

(e) the invention was described in - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; (emphasis added),

Hariharan was published on January 18, 2007 and claims priority to a provisional application filed July 1, 2005. The present application, on the other hand, was filed in U.S. on October 2005 and claims priority to International Application filed April 14, 2004, and to French Application filed April 14, 2003. Therefore, even assuming *arguendo* that Hariharan describes the claimed inventions, Hariharan's application was *not* filed before the invention by the Applicant. For at least these reasons, Hariharan does not qualify as prior art under 35 U.S.C. § 102(e). Reconsideration and removal of this 35 U.S.C. § 102(e) rejection of Claims 1 and 3 in view of Hariharan is respectfully requested.

Likewise, Chen was published on March 12, 2009 and claims priority to its parent application filed October 29, 2004. As set forth above, the present application claims priority to the French application filed April 14, 2003. Therefore, even assuming *arguendo* that Chen describes the claimed inventions, Chen's application was *not* filed before the invention by the Applicant. For at least these reasons, Chen does not qualify as prior art under 35 U.S.C. § 102(e). Reconsideration and removal of this 35 U.S.C. §

102(e) rejection of Claims 1 – 3, 6, 7 and 10 under 35 U.S.C. § 102(e) in view of Chen is respectfully requested.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

CONCLUSION

Applicant believes he has addressed all outstanding grounds raised by the Examiner and respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited.

Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant's undersigned attorney at his number listed below.

Respectfully submitted,



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